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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1992

THOMAS M. READ,
Petitioner

vs.

THE UNITED STATES OF AMERICA,
Respondent

***

AN AMICUS CURIAE TO SUPPORT A
PETITION FOR WRIT OF CERTIORARI

***

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A BRIEF IN AMICUS CURIAE IN SUPPORT OF MR. READ'S PETITION

a. Introduction.

On June 7, 1993, Thomas M. Read filed a PETITION FOR WRIT OF CERTIORARI to a Decision entered by the U.S. Court of Appeals for the Federal Circuit, affirming a lower court dismissal of his Civil RICO complaint and additionally attacking Mr. Read with allegations that his appeal was "frivolous as filed and frivolous as argued" and that he "persists in abusing the judicial process with repetitive filings without any arguable merit..."[1]

Ten citizens of the United States with knowledge of Mr. Read's premise for filing his petition, and who have suffered similar wrongdoings as alleged by Mr. Read have prepared their respective statements in support of Read's Petition. Those statements are contained in a sister Amicus Curiae filed by V.I.C.T.R.E., also in support of Mr. Read's Petition.

The supporters to Mr. Read's Petition are each victims of abuse of the judicial process in federal courts by judges, federal appointees and employees. These contributors, first as American citizens and second as victims express their outrage at what appears to be an organized disregard for the fundamental guarantees of the Constitution of the United States and the Bill of Rights. Without exception, each of the contributors have experienced the denial of Life, Liberty, the taking of Property, the denial of Due Process and in many cases the denial of the Right to a Trial by Jury.

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1 See Petition App. 1-3

We live in a time when the very fabric of our society is being tested in the streets and visible crime is present everywhere. Much more pervasive are the invisible crimes which are being committed daily in the boardrooms and court rooms of our country. Crimes are being committed by the very officers of the court from which we seek the equitable administration of justice.

On Thursday, July 1, 1993, our entire nation gasped in horror when Gian Luigi Ferri killed eight people, wounded an additional six and then turned the gun on himself. This senseless killing was the result of a man driven mad by abuses of the legal system, abuse not dissimilar to the experiences of the contributors to this brief. Rather than take the law into their own hands, the contributors to this brief support Mr. Read's Petition requesting this Court to reaffirm that all citizens of the United States are afforded the protections of the Constitution and dispel the belief as Attorney General Janet Reno said in a recent speech to employees of the U.S. Justice Department: "for many Americans, the Constitution is only a piece of paper."

b. Charter of Consumers for Legal Reform

Consumers for Legal Reform ("CLR"") was founded in 1992 with the charter to be a support group for those individuals that have suffered injustices as the result of abuses of the legal system by the actions of attorneys and judges who hide behind the letter of the law while violating the spirit of the law. CLR was born out of the experiences of its founder, Barbara J. Swist, who suffered abuse at the hands of her ex-husband, an attorney who used his office as an officer of the court

and relationship with judges to deny Swist her basic Constitutional rights.

After founding CLR, Ms. Swist soon found that she was not alone, that many citizens have suffered the same abuses as she had. Today, CLR and several counterparts across America are the beginning of a grassroots movement that is saying that the civil justice system is out of control and that there is a need for accountability to the people on the part of attorneys and judges.

It is through CLR and other groups like it that citizens have come together to share their experiences with our civil justice system. By this sharing of experience, a pattern abuse has emerged. The most prominent pattern exists in matters before the U.S. Bankruptcy Courts. Without equivocation, the pattern of racketeering activities which were alleged in Mr. Read's original RICO complaint have been experienced by others, not only in the Northern District of California, as Mr. Read alleges, but in the Central District of California and other Federal Districts across the country.

The following are some of the patterns which manifest themselves in the complaints of victims of bankruptcy fraud which have come to the attention of CLR:

1. Manipulation of Chapter 11 Reorganizations into Chapter 7 Liquidations whereby trustees gain total control of estates.

2. Sue everybody and anybody, debtors, creditors and innocent third parties that can be drug into the sphere of the bankruptcy and under the control of a trustee.

3. The administration of "alternative justice" where bankruptcy judges regularly dismiss due process and other constitutional issues as not being applicable in bankruptcy court.

4. The milking of estates with positive cash flow and liquid assets buy running up excessive billing on the part of the trustees and their counsel and accountants. [2]

5. The waging of a character assassination against any party that complaints and draws attention to the corruption within the bankruptcy system.

6. Murder - in no less than three high profile bankruptcy cases, an attorney, a witness and an investigative news reporter have been murdered.

From CLR's own investigation of the experiences of our members and the experiences of others, CLR has concluded that Mr. Read's RICO complaint is not only meritorious, but represents the heroic efforts of a man to do what is right for himself, his family and his country.

c. The Social Impact of Legal Abuse

The biggest victim of legal abuse within the

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2 **United States Trustee Program**. Hearing before the House Subcommittee on Economic and Commercial Law. November 6, 1991. 102nd Congress. Serial No: 61. See Petitioner Appendix 54-66.

bankruptcy system is our society at large. Many of the victims of the corruption of our bankruptcy system are the entrepreneurs that have created the new businesses that our society depends on for the creation of jobs, and a tax base. It is these very same entrepreneurs, that we as a nation are looking to lead us to a renewed prosperity.

The legal abuse that many of these entrepreneurs have suffered while trying to reorganize has had such an impact on their psyche as to destroy their self-confidence to the point of rendering them helpless and no longer a contributing member of society. If this abuse is allowed to continue we will be sucking the life-blood out of our economy and our nation.

The domino effect of bankruptcy fraud running rampant is best exemplified in the P*I*E Trucking bankruptcy in the Southern District of Florida. In this case, the trustee has decided to sue every freight broker that did business with P*I*E to recover discounts. This would be analogous to a trustee for an airline suing travel agents to recover commissions. The millions upon millions of dollars which is being wasted in legal fees responding to the P*I*E trustee's demands and lawsuits are astronomical, especially when you consider that these costs are going to be passed on to every consumer in higher freight costs, ultimately as higher prices for goods which are shipped by common carriers. The demands of the P*I*E trustee is nothing less than blackmail under the authority of the U.S. Bankruptcy Court. "Pay me X now or I will sue you for 3X".

d. Allegations of Abuse of Authority in the Office of the United States Trustee and the United States Bankruptcy Courts are Well Founded

The allegations of abuse of authority in the Office of the United States Trustee and the United States Bankruptcy Courts are not just the cries of a few disgruntled debtors as many judges, trustees and attorneys within the bankruptcy system would like to have you believe. Not only are these allegations being made by citizens, they have been made in testimony before the House of Representatives Subcommittee on Economic and Commercial Law and the Judiciary held on November 6, 1991 and in a subsequent Government Accounting Office Report published in January, 1993 titled: "BANKRUPTCY TRUSTEES, Oversight Improved, But Extent of Trustee Fraud is Unknown." (GAO/GGD-93-54).

The extent of the abuse is best summarized in the opening remarks of Congressman Jack Brooks, Chairman of the HR Subcommittee on Economic and Commercial Law and the Judiciary held on November 6, 1991 in which
Chairman Brooks states[3]:

"To the outside observer, one might begin the process with the presumption that all units of the Justice Department that have stirred up controversy in recent years, the U.S. Trustee Program would surely be at the bottom of the list. Yet, this is not the case if one monitors the increasing number and intensity of complaints received by the subcommittee in recent months.

A hint of potential scandal and abuse was intimated and earlier hearings of this subcommittee in 1987 and 1989 when we received testimony about the program becoming politicized. Apparently, this is a valid concern, among others.

We have now received troubling reports that U.S. Trustees are not doing enough to combat fraud, including private trustee fraud, and that conflicts of interest have arisen for the U.S. Trustee in cases in which the Department of Justice or another Federal agency has an interest.

With regard to the private trustee fraud, reports indicate that since 1987 17 former private trustees and 5 of their employees have been convicted of embezzling funds in excess of $6.1 from bankruptcy estates. Today, we expect to hear testimony from a U.S. Trustee who has uncovered millions of dollars of trustee fraud in his region. Unfortunately, I fear that these instances, like most investigations, may only be the tip of the iceberg.

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[3] Ibid.

I would tell the subcommittee members--I read all the testimony last night-- and I tell you, the rule is this. If you are dead broke, go ahead and file for bankruptcy. However, if you have any property left, you had better deal with the creditors yourself, because if there is much left somebody is going to steal it, throw it away, or let it rot. The bankruptcy system will do you in like you have never been done. But if you are absolutely broke, file for bankruptcy.

But if you've got property at all, you had better fight it out yourself because the system will get you if you don't. Trustee can hire lawyers and accountants that bleed the estate. It is a wonderful deal. I don't see how the do it in good conscience. And the judges are too busy to go and watch them.

If you have any money, Craig, don't file bankruptcy because they will get it all."

Given the increasing numbers of bankruptcy filings at a time of deep and lingering recession, we cannot afford to take chances with the trustee system...

...I am not going to stand by while those caught up in the unfortunate economic crisis facing this country are subjected to further abuse by those entrusted with the fair administration of the bankruptcy system.

CONCLUSION

The Read Petition asks this Court to review a clear and well documented case of bankruptcy fraud and federal actors engaging in RICO activities. No citizen of the United States of America should ever have been subjected to deprivation of rights and assault on their character as the Read family has.

Mr. Read has had the courage and determination to Petition this Court to seek the redress that the Constitution of the United States of America guarantees him. By accepting Mr. Read's Petition and hearing this matter, this Court will reaffirm not only Mr. Read's right to redress, but that of thousands of other American citizens that have been denied their Constitutional rights by the U.S. Bankruptcy Courts.

Furthermore, by rendering a decision in favor of Read, this Court will reaffirm that no agency of the federal government or court of law has a higher authority than the law of the land— the Constitution of these United States of America.